

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COLUMBIA PROPERTIES OF
MICHIGAN,

No. 06-10624

Plaintiff,

District Judge Julian Abele Cook

v.

Magistrate Judge R. Steven Whalen

COUNTY OF WAYNE, et.al.,

Defendants.

**SUPPLEMENTAL ORDER RE: PLAINTIFF'S MOTION
TO COMPEL DISCOVERY [Docket #34]**

On September 21, 2007, the Court denied Plaintiff's Motion to Compel Discovery [Docket #34] following an *in camera* review of documents as to which Defendant Van Buren Township claimed privilege. The Court also ordered the production, for *in camera* review, of additional documents that were listed in Defendant's privilege log, but not previously provided to the Court. Those documents (Bates numbers 400039 to 400064) have now been submitted and reviewed.

Bates nos. 400039 to 400050, and 400053 to 400054 are public documents, and thus not privileged. Bates nos. 400057 to 400064 is a copy of a petition for special assessment submitted to Van Buren Township by property owners. The petition itself is not privileged, and to the extent it was conveyed by the Township to its attorneys, it represents purely factual material, and is likewise not privileged. "The privilege only

protects disclosure of communications; it does not protect disclosure of the underlying facts by those who communicated with the attorney.” *Upjohn Co. v. U.S.* 449 U.S. 383, 395-396, 101 S.Ct. 677, 66 L.Ed.2d 584 (1981).

Bates nos. 400051 to 400052 and 400056 is correspondence from Defendant’s attorneys, and is privileged.

Accordingly, this Court’s order of September 21, 2007 [Docket #60] is amended as follows:

Plaintiff’s Motion to Compel Discovery [Docket #34] is GRANTED IN PART, to the extent that, within 10 days of the date of this Order, Defendant Van Buren shall produce to Plaintiff a copy of Bates-numbered documents 400039 to 400050, 400053 to 400054, and 400057 to 400064.

Plaintiff’s Motion is DENIED IN PART, to the extent that Defendant shall not be compelled to produce Bates-numbered documents 400051 to 400052 and 400056.

The documents that Defendant submitted for *in camera* review shall be filed under seal.

SO ORDERED.

S/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: October 22, 2007

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys

and/or parties of record by electronic means or U.S. Mail on October 22, 2007.

S/Gina Wilson
Judicial Assistant